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09/527,247 03/17/2000 W. Clinton Petty 068223/0147 3220  7590 10/03/2002  Foley & Lardner EXAMINER  3000 K Street Suite 500 Washington, DC 20007-5109  ART UNIT PAPER NUMBER	APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
Foley & Lardner 3000 K Street Suite 500 Washington, DC 20007-5109	09/527,247	03/17/2000	W. Clinton Petty	068223/0147	3220
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Suite 500 MOFIZ, APU M Washington, DC 20007-5109	3000 K Street Suite 500				
	Washington, D	C 20007-5109		ARTUNIT	PAPER NUMBER
				DATE MAILED: 10/03/2002	

Please find below and/or attached an Office communication concerning this application or proceeding.

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	Application No.	Applicant(s)	
Office Antique Community	09/527,247	PETTY, W. CLINTON	
Office Action Summary	Examiner	Art Unit	
	Apu M Mofiz	2175	
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet wi	tn the correspondence address	
A SHORTENED STATUTORY PERIOD FOR REPL' THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a reply - If NO period for reply is specified above, the maximum statutory period of the Failure to reply within the set or extended period for reply will, by statute - Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).  Status	36(a). In no event, however, may a re y within the statutory minimum of thirt will apply and will expire SIX (6) MON , cause the application to become AB	eply be timely filed  y (30) days will be considered timely.  THS from the mailing date of this communication.  ANDONED (35 U.S.C. § 133).	
1) Responsive to communication(s) filed on the	amendment was filed on 0	09/10/2002 .	
_	is action is non-final.	<del> </del>	
3) Since this application is in condition for allowa		ters, prosecution as to the merits is	
closed in accordance with the practice under Disposition of Claims			
4)⊠ Claim(s) <u>1-21</u> is/are pending in the application	1.		
4a) Of the above claim(s) is/are withdraw	wn from consideration.		
5) Claim(s) is/are allowed.			
6)⊠ Claim(s) <u>1-21</u> is/are rejected.			
7) Claim(s) is/are objected to.			
8) Claim(s) are subject to restriction and/o	r election requirement.		
Application Papers			
9) The specification is objected to by the Examine		- Francisco	
10) The drawing(s) filed on is/are: a) accept			
Applicant may not request that any objection to the 11) The proposed drawing correction filed on			
If approved, corrected drawings are required in re		sapproved by the Examiner.	
12) The oath or declaration is objected to by the Ex			
Priority under 35 U.S.C. §§ 119 and 120			
13) Acknowledgment is made of a claim for foreign	n priority under 35 U.S.C. &	\$ 119(a)-(d) or (f)	
a) ☐ All b) ☐ Some * c) ☐ None of:	i priority under do d.d.d.	3 1 10(4) (4) 51 (1).	
1.☐ Certified copies of the priority document	s have been received.		
2. Certified copies of the priority document		oplication No.	
3. Copies of the certified copies of the prior			
application from the International Bu  * See the attached detailed Office action for a list	reau (PCT Rule 17.2(a)).		
14) Acknowledgment is made of a claim for domesti	c priority under 35 U.S.C.	§ 119(e) (to a provisional application).	
a) The translation of the foreign language pro			
Attachment(s)			
1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s)	5) Notice of I	Summary (PTO-413) Paper No(s)  nformal Patent Application (PTO-152)	

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## **DETAILED ACTION**

1. Applicant's arguments filed September 10, 2002 with respect to claims 1-38 have  $\frac{2}{09-30-30}$  been considered but are moot in view of the new ground(s) of rejection.

## Claim Rejections - 35 USC § 103

- 2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.
- 3. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Colyer (U.S. Patent No. 6,023,722) in view of Allison et al. (U.S. Patent No. 6,167,032 and Allison hereinafter).

As to claims 1,6,10 and 14, Colyer teaches setting a high threshold of a depth of the queue to a first value (see Fig.1, Fig.2, Fig.3; col 4, lines 15-37;col 7, lines 19-31); detecting when the depth of the queue equals or exceeds the high threshold (see Fig.1, Fig.2, Fig.3; col 4, lines 15-37;col 7, lines 19-31).

Colyer does not teach raising the high threshold by a predetermined increment each time the depth of the queue equals or exceeds the high threshold.

Allison teaches raising the high threshold (i.e. transmit threshold) by a predetermined increment each time the depth of the queue (i.e. the number of blocks to

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be transmitted in the frame (i.e. queue/FIFO structure) from the host system) equals or exceeds the high threshold (col 3, lines 1-35).

It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Colyer with the teachings of Allison to include raising the high threshold by a predetermined increment each time the depth of the queue equals or exceeds the high threshold with the motivation to maximize the network's performance (Allison, col 3, lines 25-30).

As to claims 2,7,11 and 15, Colyer teaches starting at least one task for processing one or more messages stored in the queue each time the depth of the queue equals or exceeds the high threshold (col 7, lines 19-31).

As to claims 3,8,12 and 16, Colyer teaches starting at least one task for processing one or more messages stored in the queue each time the depth of the queue equals or exceeds the high threshold if the number of tasks currently processing the messages in the queue is less than a predetermined amount (col 7, lines 19-31).

As to claims 4,9,13 and 17, Colyer does not teach setting a low threshold of the depth of the queue to a value lower than the value of the high threshold and reducing the value of the high threshold if the depth of the queue is equal to or less than the value of the low threshold.

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Allison teaches setting a low threshold of the depth of the queue to a value lower than the value of the high threshold (i.e. the transmit threshold is lowered or optimized) (col 3, lines 1-35) and reducing the value of the high threshold if the depth of the queue is equal to or less than the value of the low threshold (i.e. the transmit threshold is lowered or optimized) (col 3, lines 1-35).

It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Colyer with the teachings of Allison to include setting a low threshold of the depth of the queue to a value lower than the value of the high threshold and reducing the value of the high threshold if the depth of the queue is equal to or less than the value of the low threshold with the motivation to maximize the network's performance (Allison, col 3, lines 25-30).

As to claims 18-21, Colyer teaches stopping at least one task for processing one or more messages stored in the queue if the depth of the queue is equal to or less than the value of the low threshold (col 7, lines 19-31).

## **Points of Contact**

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Apu M. Mofiz whose telephone number is (703) 605-4240. The examiner can normally be reached on Monday – Thursday 8:00 A.M. to 4:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dov Popovici can be reached at (703) 305-3830. The fax numbers for the group is (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

Apu M. Mofiz

Patent Examiner

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September 25,2002

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